

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ROBERT MITCHELL,

Plaintiff,

vs.

TORRIE CARDER and LUZ A.  
RIVERA,

Defendants.

NO. CV-08-083-FVS

ORDER DENYING MOTION FOR  
PRELIMINARY INJUNCTION/TEMPORARY  
RESTRAINING ORDER

BEFORE THE COURT is Plaintiff's document titled, "Order to Show Cause for a Preliminary Injunction and a Temporary Restraining Order," which the court liberally construes as a Motion for Preliminary Injunction and/or Temporary Restraining Order (Ct. Rec. 29), received on May 7, 2008. Plaintiff, a prisoner at the Monroe Correctional Complex is proceeding *pro se* and *in forma pauperis*; Defendants have not been served in this action.

Plaintiff noted his motion for hearing with oral argument on May 9, 2008. Under LR 7.1(h)(2), Local Rules for the Eastern District of Washington, the court finds oral argument is unwarranted. Therefore, the Motion was heard without oral argument on the date signed below.

Plaintiff is advised the court has no jurisdiction to address his motion until he has filed a legally sufficient complaint. See

1 generally Fed. R. Civ. P. 3 and the notes following the rule. By  
2 Order filed May 5, 2008 (Ct. Rec. 26), the court advised Plaintiff of  
3 the deficiencies of his initial complaint and directed him to amend or  
4 voluntarily dismiss this action. The present complaint is not legally  
5 sufficient. The court notes further that Defendants are not parties  
6 to a suit before being served with process, see Neals v. Norwood, 59  
7 F.3d 530, 532 (5th Cir. 1995). Consequently, the court is without  
8 authority to direct their conduct.

9 Accordingly, **IT IS ORDERED** Plaintiff's Motion (Ct. Rec. 29) is  
10 **DENIED without prejudice** to filing a new motion once Plaintiff has  
11 filed a legally sufficient complaint. Plaintiff should be careful to  
12 present his caption in an orderly fashion. The title of the document  
13 (i.e., Motion) should be exclusively on the right side of the caption,  
14 while the parties names are exclusively listed on the left. There  
15 should be no overlap between the two.

16 **IT IS SO ORDERED.** The District Court Executive is directed to  
17 enter this Order and forward a copy to Plaintiff.

18 **DATED** this 9th day of May 2008.

19  
20 s/ Fred Van Sickle  
21 FRED VAN SICKLE  
22 SENIOR UNITED STATES DISTRICT JUDGE  
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